GEORGETOWN LAW
INSTITUTE FOR PUBLIC REPRESENTATION

Hope M. Babcock
Angela J. Campbell
Brian Wolfman
Directors
Thomas Gremillion
Anne King
Laura M. Moy*
Margot J. Pollans
Blake E. Reid
Staff Attorneys

600 New Jersey Avenue, NW, Suite 312
Washington, DC 20001-2075
Telephone: 202-662-9535
TDD: 202-662-9538
Fax: 202-662-9634

November 23, 2012

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th St, SW
Washington, DC 20554

Via electronic filing

Re: MB Dkt. No. 09-182 – 2010 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996; MB Dkt. No. 07-294 – Promoting Diversification of Ownership in the Broadcasting Services

Dear Ms. Dortch:

On November 20, 2012, Matt Wood, Andy Schwartzman, and Lauren Wilson of Free Press; Angela Campbell of the Institute for Public Representation ("IPR") which represents the Office of Communication of the United Church of Christ, Inc., Media Alliance, National Organization for Women Foundation, Communications Workers of America, Common Cause, Benton Foundation, Media Council Hawai`i, and Prometheus Radio Project; and Jessica Gonzalez of the National Hispanic Media Coalition (collectively "Public Interest Organizations") met with Sean Lev, Jacob Lewis, Marilyn Sonn, and Bill Scher of the General Counsel's Office, Hillary DeNigro and Brendan Holland from the Media Bureau, and Elizabeth Andrion from the Chairman's office. The subject of the meeting was the Commission's 2010 Quadrennial Media Ownership Review and the continuing need to assess broadcast ownership levels among women and people of color carefully and thoughtfully before releasing a final order.

* Admitted to the Maryland bar only; DC bar membership pending. Practice supervised by members of the DC bar.

The Public Interest Organizations stressed that they did not want to appeal the Commission's ownership rule decision for the third time and were hoping to be able to file in support of the Commission's decision. However, based on what they had heard about the draft order, they were concerned that the Commission was not complying with the Court's mandate to consider the impact of modifying or retaining the existing ownership limits on opportunities for women and people of color to own broadcast stations and to adopt a definition of "eligible entity" that would further that goal.

In particular, the Public Interest Organizations were concerned about relaxing the Newspaper-Television Cross-Ownership rule. Using the data from the recently-released Bureau Report, Free Press determined that there were only nineteen minority-owned television stations in the top 20 DMAs and none were ranked among the top 4. Those stations are identified in the attached chart.

If that rule were relaxed, those stations would be vulnerable to acquisition by newspaper companies not controlled by minorities, just as in the past, relaxing the radio and television limits resulted inexorably in sales of minority owned stations. Public Interest Organizations support maintaining the prohibition against newspaper-television cross ownership because consolidation necessarily results in a loss of diversity of ownership and diversity of viewpoints – two separate but intertwined types of diversity, both of which the Commission has sought to promote in its prior media ownership decisions. Deciding to retain the NBCO rule because it would likely preserve both minority ownership and diversity of viewpoint would simply maintain a pro-competitive and race-neutral policy that does not invite a higher degree of constitutional scrutiny.

Public Interest Organizations urged that if the Commission nonetheless decides to adopt the proposal that mergers between daily newspapers and non-top-4 television stations in the top 20 DMAs are presumptively in the public interest, it was essential that the people who reside in those service areas have meaningful public notice when a waiver is requested and an opportunity to rebut the presumption. They noted that the need for public notice was addressed at length in the Citizen Petitioner's brief in *Prometheus II* and in the comments filed by Media Access Project and Prometheus Radio Project in response to the 2010 QR NPRM.

Public Interest Organization also urged that the Commission adopt a rule attributing shared services (SSAs) as proposed in the Comments of UCC et al, at 1-23 (Mar. 5, 2012). Such a rule is necessary to prevent television stations from circumventing the duopoly rule. Public Interest Organizations expressed surprise that the draft order apparently proposes to attribute JSAs, in which one station sells advertising for another station because it has an economic incentive

to influence programming, but not shared services agreements, where a station actually provides all of the local news programming (and often identical programming) to another station in the market. If the Commission declines to adopt such a rule at this time, it should, at a minimum, require that television stations inform the Commission and the public about their shared services or similar agreements.

Public Interest Organization urged the Commission to reconsider relaxing the rules because once the rules are relaxed and markets became more consolidated, it would be difficult to go back. They also pointed out that the order should take into account that the overall number of television stations could be reduced by stations taking advantage of the incentive auctions.

Respectfully submitted,
/s/
Angela J. Campbell
Institute for Public Representation
Georgetown Law
600 New Jersey Avenue, NW
Washington, DC 20001
(202) 662-9541
angela.campbell@law.georgetown.edu

cc: Sean Lev
Jacob Lewis
Bill Scher
Marilyn Sonn
Elizabeth Andrion
Hillary DeNigro
Brendan Holland